FILE COPY

Office-Supreme Court, U.S.
FILED
OCT 5 1964
JOHN F. DAVIS, CLERK

# Supreme Court of the United States

**OCTOBER TERM**

**No. 561**

**STATE OF LOUISIANA,**

**Respondent,**

***versus***

**DUDLEY DUPLESHIN,**

**Realtor.**

***Application for a Writ of Certiorari and Review, Directed to the Honorable Leo W. McCune, Judge of the Juvenile Court for the Parish of Jefferson, and the Supreme Court for the State of Louisiana.***

## *APPLICATION ON BEHALF OF DUDLEY DUPLESHIN, REALTOR.*

H. ALVA BRUMFIELD,
GARLAND R. ROLLING,
*Attorneys for Dudley Dupleshin.*

MONTGOMERY & CO., "THE BRIEF SPECIALISTS", 1107 POYDRAS ST., N. O., LA.

# Supreme Court of the United States

**OCTOBER TERM**

---

**No. .....**

---

**STATE OF LOUISIANA,**

**Respondent,**

***versus***

**DUDLEY DUPLESHIN,**

**Realtor.**

---

***Application for a Writ of Certiorari and Review, Directed to the Honorable Leo W. McCune, Judge of the Juvenile Court for the Parish of Jefferson, and the Supreme Court for the State of Louisiana.***

---

## *APPLICATION ON BEHALF OF DUDLEY DUPLESHIN, REALTOR.*

---

## *REFERENCE TO OFFICIAL AND UNOFFICIAL REPORTS OF OPINIONS DELIVERED BY COURTS BELOW*

1. Decision by the Supreme Court of the State of Louisiana denying writs of certiorari, (certified copy contained in the record attached to proceedings, unreported in bound volume at time of filing writ)

2. Decision by the Juvenile Court for the Parish of Jefferson. (none reported but copy of same certified attached to the proceedings)

## *JURISDICTION*

Jurisdiction of this Honorable Court is invoked on the grounds that Petitioner's rights have been violated as guaranteed to him by the 14th Amendment of the Constitution of the United States.

Judgment was rendered by the highest Court of the State of Louisiana, being the Supreme Court thereof, on June 30, 1964, denying Petitioner right of review. Under the rules of the Supreme Court of Louisiana no petition for rehearing from a denial of a review is permissible.

## *STATE AND FEDERAL STATUTES AND CASES CITED*

1. Louisiana State Revised Statutes 14:81
2. United States Constitution, Amendment 14
3. *Lane v. Brown*, 83 S. Ct. 768 (1963)
4. *Draper v. State of Washington*, 83 S. Ct. 774 (1963)

## *STATEMENT OF CASE*

Dudley Dupleshin was duly charged in the Juvenile Court with the violation of R.S. 14:81 and convicted and given a six (6) month sentence in the Parish Prison.

An appeal was duly filed from this conviction and the same was dismissed on the joint motion of the Assistant District Attorney and counsel for defendant due to the fact that in accordance with the previous decisions of the Supreme Court of Louisiana sentences of six (6) months or less were not appealable.

The trial in this matter lasted over several days and there was testimony from the juvenile investigating officer, the defendant, his wife and other neighbors. There

was also the testimony of the minor child's mother, inasmuch as the Judge had excluded the minor child's testimony since he ruled that she was incompetent to testify.

The only evidence that points to defendant's guilt whatsoever was the testimony of Debra Guggenheimer's mother as to what Debra had told her defendant had done to her. This was rank and file hearsay evidence and objected to by counsel of defendant, but nonetheless the Judge admitted it. Debra discussed this matter with her mother many hours after the alleged happening of the event.

Little or none of the testimony of this case was ever taken down or transcribed and, in fact, the record herein contains no testimony since none was even taken down other than on one day of the trial. The Judge called in a reporter to take down certain of his statements as well as certain testimony which apparently has never been transcribed and forms no part of this record.

Further, approximately 95% of the proceedings were never recorded.

## *ERRORS ASSIGNED*

1. It is error for a trial court to convict a defendant where there was no evidence whatsoever pointing to his guilt.

2. It is error to fail to furnish defendant a recording and transcription of the proceedings on which he was convicted. Such a failure denies defendant due process of law as guaranteed him by the Constitution of the United States, Amendment 14.

*Lane v. Brown*, 83 S. Ct. 768 (1963)
*Draper v. State of Washington*, 83 S. Ct. 774 (1963)

## CONCLUSION

It is respectfully submitted that this Honorable Court should issue a writ of certiorari and review and ultimately that the judgment of the trial courts should be reversed or in the alternative a new trial granted.

H. ALVA BRUMFIELD,
GARLAND R. ROLLING,
*Attorneys for Defendant,*
319 Metairie Road,
Metairie, Louisiana.

STATE OF LOUISIANA
PARISH OF JEFFERSON

BEFORE ME, the undersigned authority, personally came and appeared,

GARLAND R. ROLLING,

who after being by me first duly sworn, did depose and say:

That he is attorney for the defendant, and that he prepared the writs in this case and supervised the copying of all the documents, and to the best of his knowledge and belief the proceedings, the court minutes and all of the other documents attached hereto are true copies of the originals;

That all of the allegations in the petition for writs are true and correct; and

That a copy of this petition has been delivered to the Honorable Leo McCune, Judge for the Juvenile Court for the Parish of Jefferson, and to Mr. Richard Thalheim, Assistant District Attorney, and the Supreme Court of Louisiana.

Garland R. Rolling

Sworn to and subscribed before me, this 28th day of September 1964

Notary Public

## JUDGMENT OF THE DISTRICT COURT

9/26/63 Taken up on Motion for new trial, testimony of Mrs. McDaniel and Mrs. Hebert heard, motion submitted, motion for new trial denied. Defendant sentenced to six months in Parish Prison. Motion for appeal filed by attorney for defendant returned 1/12/63

## JUDGMENT OF THE SUPREME COURT

State of Louisiana June 30, 1964

v.

Dudley Dupleshin No. 47,356

---

In re: Dudley Dupleshin applying for writ of certiorari and review.

---

Writ refused.

There is no error of law.

/s/ FWS
/s/ JBF
/s/ JBH
/s/ FWH
/s/ EHMcC
/s/ WBH
/s/ JWS

---

A TRUE COPY
Clerk's Office
Supreme Court of Louisiana
New Orleans, June 30, 1964

/s/ Harold A. Moise, Jr.
Deputy Clerk

[SEAL]